



INB-5 Tuesday

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TODAY'S DELEGATE BRIEFING

**Chair's Text:
What's Good,
What's Bad**

15 October 2002
13:00 - 14:00
Salle 3

Shoba John (India)
Shane Bradbrook (NZ)
Clive Bates (UK)
Ira Shapiro (USA)

**DEATH
CLOCK**

Since the opening of the first working group for the Framework Convention on Tobacco Control on 15 October 2002,

11,963,376
people have died from tobacco-related diseases.

(At 9 am 15 October 2002)

ALLIANCE BULLETIN

Framework Convention on Tobacco Control

Geneva, Switzerland

Issue 27

15 October 2002

What is it for?

There is a hard question to be asked at the start of INB-5. Will the FCTC do more for public health than the sum of World Health Assembly resolutions on tobacco to date?

Many delegates will today applaud the Chair for his efforts in bringing forward a new negotiating text — and indeed it is far clearer than previous texts. But since the publication of the text in July, the 180 NGOs of the Framework Convention Alliance have had to add a new principle to guide the negotiators. It is “first do no harm”.

And if the text is agreed as it is, harm *will* be done. The text has earned the gruesome approval of BAT Chairman Martin Broughton. “I think the Convention ... looks like coming out giving quite a lot of flexibility. So, it’s looking to be a more sensible draft now than it was some time ago, but it’s still work in progress,” said the world’s most prolific merchant of death in his July address to shareholders. That should send a chill through the negotiating rooms.

Take tobacco advertising... Every single scrap of evidence suggests the following: advertising bans have to be comprehensive to be effective; adult-oriented advertising often has the aim and always the effect of appealing to kids; proving the tobacco industry’s intent to target particular groups is impossible from looking at the adverts themselves (though has been established beyond doubt from its internal docu-

ments); and everyone is vulnerable to this highly poisonous and ruthlessly marketed drug of addiction.

So how evidence-based is Article 13e calling for “strict restrictions on all forms of tobacco advertising, promotion and sponsorship targeted at vulnerable groups”? Not at all. The only language that should be written into a WHO treaty is language supporting a total ban, because that is what the evidence justifies.

Take smuggling.... The ICITT in New York created at least an illusion of progress in tackling the US \$25 billion fraud on national finances. Ideas included a robust tracking and tracing régime, a proper prior notification process, new transit documentation, end-destination labelling, licensing and record keeping, and a comprehensive regime for co-operation.

The Chair’s text falls far short of this and far short of being an adequate or proportional response to the problem and its linkages to narcotics, money laundering, terrorism and — lest we forget — death and disease caused by increased tobacco consumption. The case for a comprehensive protocol on smuggling, negotiated by Customs and law enforcement experts, informed by an understanding of the tobacco industry as a prime driver (as the evidence makes clear), and in partnership with the needlessly reluctant World Customs Organisation. Work should start right away.

(Continued on p. 3)

Today's Weather: Light Rain
High 14 °C Low 10 °C

4ème réunion du groupe AFRO-OMS sur la Convention-cadre pour la lutte antitabac

L'Afrique confirme son rôle de chef de file

Les pays africains sont unanimes à réclamer un renforcement de la Convention-cadre pour la lutte antitabac, notamment en ce qui a trait à la publicité et à la primauté de la santé publique sur les considérations commerciales. C'est le constat qui ressort de la réunion qui s'est déroulée du 2 au 6 septembre dernier à Lilongwe, au Malawi, pour permettre aux Etats africains d'harmoniser leurs points de vue par rapport aux futures négociations à Genève.

Dans son discours d'ouverture, le ministre de la Santé du Malawi, M. Yusuf H. Mwawa, a invité les délégués à tenir compte à la fois des aspects sanitaires et économiques du tabagisme. « *Dès qu'un individu commence à fumer, ça devient difficile pour lui d'arrêter cette habitude*, a noté M. Mwawa. *Nous espérons que la Convention-cadre pour la lutte antitabac aura des instruments adéquats pour permettre aux Etats membres d'empêcher les groupes vulnérables de fumer, surtout les mineurs* ».

Le Malawi étant le plus important pays exportateur du tabac en Afrique, M. Mwawa a plaidé aussi pour une aide internationale accrue. « *En tenant compte du fait que le tabac a des effets négatifs et que ses conséquences sont catastrophiques pour la santé publique, nous ne pouvons pas ignorer la réalité que la vente du tabac au Malawi nous permet de financer les services de santé. Je reconnais que le but de cette Convention est de réduire la consommation des cigarettes et la culture de tabac. Cependant, la mise en place d'un fonds qui pourrait aider des pays comme le Malawi est essentiel pour leur survie économique* ».

Ensuite, ce fut au tour du Dr Charles Maringo, représentant le Dr Ebahima Samba (Directeur régional Afrique de l'OMS), d'enchaîner avec un discours sur le danger que représente la consommation du tabac pour l'humanité. « *Les produits de tabac sont des produits peu communs, qui ne sont ni complètement réglés en tant que produits licites ni traités en tant qu'illicites*, de dire le Dr Maringo. *Qu'est-ce qu'un produit, qui contient plus de 60 substances carcinogènes et jusqu'à 4000 additifs et qui ne porte même pas une révélation légalement exigée de son contenu ?* ». La Convention-cadre est une stratégie pour corriger de telles contradictions au niveau mondial, a-t-il poursuivi.

Il appartient donc à la communauté internationale de mettre en application des normes globales pour arrêter le carnage qui a mené l'année dernière à 4,2 millions de décès dus au tabac et mèneront, selon les estimations, à 10 millions de décès vers les années 2020. 70% de ces morts projetées auront lieu dans les pays en voie de

développement, a martelé Maringo avant de conclure en formulant les vœux de voir le maintien de l'union du groupe africain qui a fait preuve de cohésion durant toutes les séances de négociations de la CCLAT.

Pendant cinq jours, les délégués africains ont analysé, point par point, le nouveau texte soumis par le Président. Ils ont confirmé les points les plus forts de cette Convention, notamment ceux adoptés lors des précédentes réunions. Il s'agit des questions de la publicité, de la défense de l'environnement, de la culture du tabac et de la lutte contre la contrebande.

Ainsi, les délégués africains tiennent à améliorer certaines dispositions du nouveau texte qu'ils jugent trop faibles. (*Voir extrait de la Déclaration.*)

Pour les activistes antitabac du monde entier, le continent africain demeure donc l'espoir pour l'obtention d'une convention très forte qui va réduire les conséquences dramatiques de la consommation du tabac dans le monde. Surtout lorsqu'on sait que conformément à l'article 36 de l'ébauche actuelle, les pays africains, à eux seuls, seraient assez nombreux pour assurer l'entrée en vigueur de la Convention.

L'unité africaine tant recherchée est en train de faire ses preuves dans la santé publique.

Extrait de la Déclaration de Lilongwe relative à la Convention-cadre pour la lutte antitabac

Les Etats membres de la région Afrique de l'Organisation Mondiale de la Santé [O.M.S. AFRO], au terme de la 4^{ème} réunion consultative relative à la Convention Cadre pour la Lutte Anti-Tabac C.C.L.A.T qu'ils ont tenue à Lilongwe (Malawi) : [...]

INVITENT les Etats Membres à consolider leur solidarité singulièrement lors de la négociation de la Convention-cadre pour la lutte antitabac, en accordant la priorité à la santé publique, notamment :

- par l'interdiction de toute publicité en faveur des produits du tabac,
- par l'interdiction de vente en franchise de douane de tout produit du tabac,
- par la suppression de toutes formes de subvention en rapport avec la culture du tabac ;
- par un encouragement soutenu aux programmes de diversification de l'agriculture dans les pays dont l'économie est tributaire de la culture du tabac.

**Adopté à Lilongwe Malawi
6 septembre 2002**

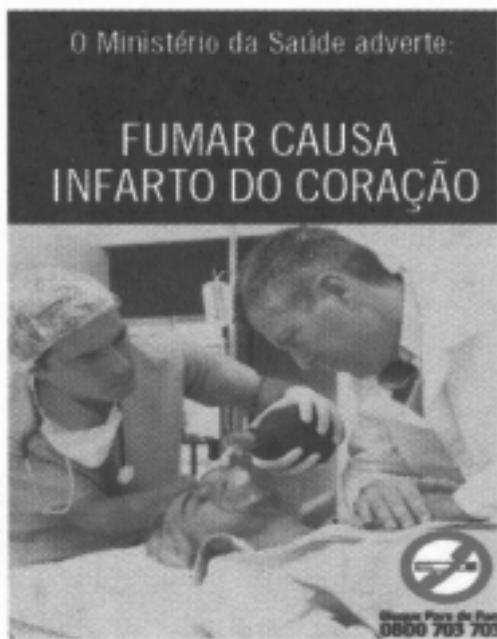
Etats-membres participants à la réunion : le Botswana, le Cameroun, la Côte d'Ivoire, la République démocratique du Congo, l'Ethiopie, le Kenya, le Lesotho, le Madagascar, le Malawi, l'Ile-Maurice, le Mozambique, la Namibie, le Nigéria, le Sénégal, les Seychelles, l'Afrique du Sud, le Swaziland, la Tanzanie, l'Ouganda, la Zambie, le Zimbabwe.

What Needs to Change in Article 11 (Packaging & Labelling)

A strong packaging and labelling régime in the FCTC would be incredibly important to government efforts to protect their citizens. Consumers also have a right to know what they are buying, to be warned of its dangers, and not be misled by the manufacturer.

To the extent that 'informed choice' can exist with an addictive product that kills half of its long-term users, packaging and labelling information are essential components of the effective communication of basic health education messages. Four main changes in the Chair's text are needed:

1. Greater clarity is needed in sections 11.1 (c) and 11.1(d). The various warnings and messages specified in these articles should be separated, and each specified in its own paragraph. This will bring necessary clarity to the text.



2. Size matters. Article 11 should make a clear commitment to giving no less than 50% of each of the principal display panels over to warnings and consumer information — and it should be made clear this is a minimum, not a ceiling.

3. Delete the label indicating 'prohibition of sale to minors' contained in 11.1.d. This would have the perverse effect of making smoking seem more 'grown up', a rite-of-passage to adulthood, and therefore more at-

tractive to young people. This would do harm if retained.

4. Finally, Article 11.1.b should be amended to ban terms like 'light' and 'low-tar' outright, without forcing each party to prove that such terms are false and misleading. These terms are used in many countries to suggest to consumers that they can reduce their exposure to harmful smoke constituents by switching brands of cigarettes. Unfortunately, there is no convincing evidence that switching to 'lights' in fact results in a meaningful reduction in disease risk, and there is every reason to believe that the existence of 'light', 'low-tar' etc. brands reduces propensity to quit.

A landmark study by the U.S. National Cancer Institute published in November 2001 concluded that the use of terms such as "deceptive", has misled consumers into believing such cigarettes are less harmful, and constitutes "an urgent public health issue."

For other health claims made for tobacco products, the safest approach is to ban all implied health claims on tobacco packaging unless approved by a competent health authority that has full regulatory authority. This is an issue that countries can make great progress on this week.

What is it for? (continued)

Take packaging... the text of Article 11 jumbles several different labels into one 'health warning' and fails to address the thing that really matters — size. Since tobacco use kills half its long-term users, is it unreasonable or disproportional to require at least half the pack to be devoted to communicating this grisly fact? What is the value of stressing that smoking is not for under-age smokers, when this just makes it more appealing to kids?

And what is the point of having a public health treaty that contains clauses that subordinate it to earlier and more general trade treaties? What is amazing is that some free-trade governments have forgotten what free trade is supposed to do... increase consumption and reduce prices, which is a terrible idea in the case of an addictive and toxic product.

Here we have a specific and later treaty than the general WTO agreements. For disputes between parties to the FCTC, public health should take precedence. Article 2.3, 4.5 and 15.2 invert this logic for reasons that no one can explain and should be deleted and replaced with language that put health first, unambiguously.

— Clive Bates, ASH London

La reunión de México augura un cambio favorable en la posición de Latinoamérica

Surgieron resultados muy positivos de la reunión reciente de los países de América Latina y el Caribe sobre el texto del Convenio Marco. El elemento crítico que posibilitó el cambio fue el abandono del "consenso obligatorio", utilizado hasta entonces, por lo que los acuerdos se basaron en "grandes mayorías" (dos o menos países en desacuerdo) o 'mayorías simples' (más de la mitad a favor).

Esto impidió la "manipulación" en temas conflictivos por parte de uno o dos países en desacuerdo con la mayoría, como ocurrió en reuniones previas.

Entre el 10 y el 13 de Septiembre de 2002, se reunieron en Ciudad de México, 48 delegados de 25 países de América Latina y el Caribe para analizar el nuevo texto del presidente, bajo la atenta mirada de 7 ONGs.

De lo sucedido en dicha reunión queremos destacar :

a) Que hubo 'consenso' en que la salud debía estar por encima del comercio. Al discutir la eliminación de los artículos 2.4, 4.5 y 15.2, que impiden la concreción del mismo, el acuerdo se logró en base a una gran mayoría.

b) Se propuso sustituir

términos poco precisos como : 'procurará promover', 'expectativas', etc., por otros más comprometidos : 'promoverá', etc.

c) Con respecto a la Prohibición de la Publicidad, si bien no se consideró la Prohibición total, se planteó la 'eliminación progresiva', no 'gradual' como estaba en el texto, y a instancias de Brasil se discutió la posibilidad de establecer una fecha definitiva para eliminarla, la cual sería fijada en una instancia posterior. La gran mayoría apoyó dicha moción. También se propuso extender la prohibición de la publicidad a los logos y a la propia industria tabacalera, no sólo a sus productos.

d) En relación al artículo 8, sobre el Tabaquismo Pasivo, el grupo excluyó el término 'grupos vulnerables', acordó unánimemente reemplazar la palabra 'adoptará' por 'impulsará' y la eliminación de 'adecuadamente', porque se consideró impreciso.

e) Una gran mayoría estuvo de acuerdo en utilizar criterios de Salud Pública, y dejar de lado las normas ISO, dominadas por la industria, para evaluar los contenidos y las emisiones del tabaco.

f) Con respecto a las advertencias sanitarias : la gran mayoría estuvo de acuerdo con la inclusión de pictogramas y la rotatividad de las advertencias, mencionándose un piso mínimo de 25%. La gran mayoría estuvo de acuerdo en eliminar la leyenda 'prohibida la venta a menores de edad' en el paquete, porque ello podría inducir a los jóvenes al consumo.

g) También la gran mayoría estuvo de acuerdo con la inclusión del capítulo de responsabilidad e indemnización.

h) Se observó una discusión con respecto al artículo 30, *Reservas*, dado que algunos países plantearon la eliminación de las mismas. La mayoría estuvo de acuerdo en mantener el artículo tal cual está, para mantener la fuerza del Convenio.

Lo expuesto implicaría que la región de Latinoamérica dejaría de ser una de las más débiles, para ubicarse dentro de las que apoyan un Convenio Marco fuerte y efectivo.

— Eduardo Bianco, Director del Programa de Control del Tabaco, Fundación Interamericana del Corazón

Malaysia ends indirect advertising

Malaysia is shedding its reputation as the world capital for indirect advertising. In August this year the Malaysian Health Minister announced that indirect tobacco advertising and sponsorship activities will be banned, effective 1 January 2003.

This decision marks the closing of a notorious chapter in Malaysia's tobacco history. This means no more Salem Cool Planet pop concerts or Benson & Hedges Golden Dreams. No more Dunhill movies or Marlboro Classics clothes adverts on television or in the press.

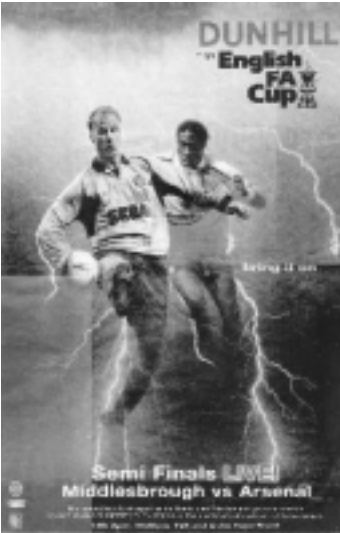
In September 2001 the big three of the tobacco industry, Philip Morris, BAT & Japan Tobacco, collec-

tively announced the new International Tobacco Products Marketing Standards, which claim to promote and distribute tobacco only to adult smokers. However these guidelines are seen by the public health community as an attempt at self-regulation to pre-empt a stringent FCTC.

In reality, implementation of the standards translates into flexible deadlines and "business as usual". For example in Malaysia, tobacco sponsorship of sports still continued after the International Standards were announced.

It has been a long and hard battle for the public health community in Malaysia, but two events were

pivotal in reaching the new landmark this year – the 2002 Soccer World Cup and the FCTC.



The telecast of the World Cup to Malaysia was sponsored by BAT's Dunhill. Advertisements for the sponsorship featuring the FIFA logo with Dunhill's name and images of soccer heroes such as David Beckham were aired on Malaysian television several weeks prior to the tournament. The Malaysian public was not told that FIFA had a no-tobacco rule for its event, nor that this year's World Cup

was special because FIFA had signed a memorandum of understanding with WHO to make the World Cup tobacco-free. The tournament was kicked off on World No-Tobacco Day with the theme, "Play it tobacco free". The irony was stark and Malaysia's penchant for allowing tobacco sponsorship in international sports once again generated international attention.

BAT stood firm that it had not broken any law and proceeded with the sponsorship, using Beckham's images without his permission. This sponsorship in the midst of World No-Tobacco Day made clear just how far the tobacco industry, despite its talk of social responsibility and marketing standards, has really changed.

The FCTC has provided extra impetus for Malaysia to re-examine its current weak ban on cigarette advertisements, which does not cover indirect advertising or sponsorship activities.

Malaysia has noted that many countries support a ban on all forms of tobacco advertising and sponsorship in the FCTC, and that this is the way forward. The time seemed right finally to announce the ban on all tobacco advertising, direct and indirect this year, allowing it to become a model to other countries on how to rectify weak legislation and learn from our mistakes.

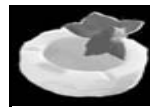
— Mary Assunta,
Consumers Association of Penang, Malaysia

Dirty Ashtray Award

Japan [Tobacco], for ongoing efforts to bury FCTC, and outrageous challenges to other countries' tobacco control policies in court.



Orchid Award



Malaysia, for drawing the right lessons from BAT's sneaky exploitation of the 2001 World Cup.

Japan Tobacco (continued from p. 6)

Middle East and Africa — all areas where much work remains to be done to effectively restrict tobacco marketing, and where a strong FCTC is most likely to have an immediate impact.

Fighting other countries' policies in court

"The Framework Convention contains several items toward which JT is already committing voluntarily and proactively to support," claims the company in its 2002 annual report. In the next paragraph, the company "opposes any excessive restriction of tobacco products. We also take issue with the methods that seek to enforce a single set of restrictions globally, without taking into account the unique legal systems, cultures, and histories of individual nations."

This plea for cultural sensitivity does not extend to JT's own legal department. For example, Japan Tobacco's Canadian subsidiary is attempting to get that country's advertising restrictions,

warning labels and other tobacco control measures overturned in court — despite overwhelming support for the federal *Tobacco Act* from all political parties.

In Europe, JT International has filed a legal challenge against the European Union's groundbreaking tobacco products directive, arguing that intellectual property laws protect its right to mislead customers with the 'mild' descriptor.

In the coming days, should Japan claim the FCTC text should be weakened to allow countries more autonomy in setting national tobacco control policies, we trust other countries will point out the Japanese government's hypocrisy. Through JTI, the Japanese government is actually in the business of taking other governments to court for daring to protect their citizens from deceptive marketing.

— Francis Thompson,
Non-Smokers' Rights Association (Canada)

Japan Tobacco: strong contender for world title of Public Health Enemy No. 1

At INB-5, the Japanese government is widely expected to be a major obstacle to negotiating a strong and effective treaty — in no small measure because of the extraordinary influence of Japan Tobacco.

According to a recent report by Kyodo News (8 October), the Japanese Finance Ministry is actually arguing internally against one of the pillars of the FCTC, the objective of reducing tobacco consumption. The agency reports that Japan wishes to see tobacco defined as an “article of taste for adults”.

This Neanderthal position bears a striking resemblance to the public position of Japan Tobacco (JT). In its latest annual report, JT describes tobacco as “a firmly established feature of human lifestyle [that] has a long history of contributing to the enjoyment of adults.”

Japan is unique amongst industrialised countries in still having a domestic tobacco monopoly. Japan Tobacco, with two-thirds of its shares in government hands, is legally obliged to purchase all domestically grown tobacco and continues to have a monopoly on domestic cigarette production.

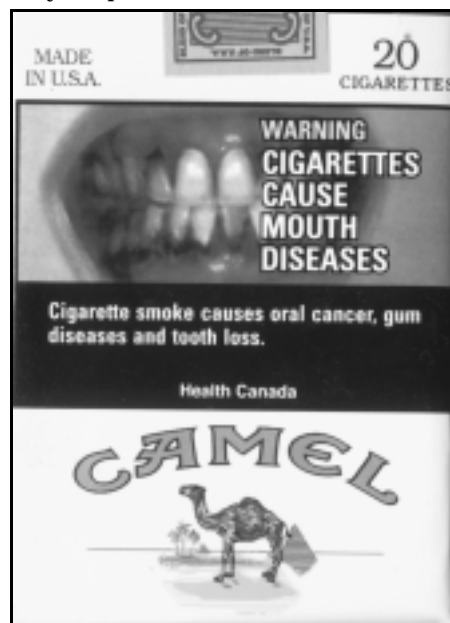
Under intense pressure from the United States, Japan opened its markets to imports of foreign-made cigarettes in the 1980s. Despite their best efforts, however, foreign giants Philip Morris and BAT are still small players on the Japanese mar-

ket.

Meanwhile, through aggressive advertising and its purchase of RJ Reynolds’ non-US business in 1999 (including Winston and Camel, the world’s No. 3 and No. 5 brands, respectively), JT has clawed its way into the global big leagues, and now sells almost as many cigarettes outside Japan as in its home country. Japan Tobacco is now almost exactly half the size of Philip Morris, with global sales of more than 450 billion cigarettes in fiscal year 2002.

JT International’s growing business is concentrated in Russia and other CIS countries, as well as the

(Continued
p. 5)



Government-owned Japan Tobacco seller of Camel brand cigarettes throughout the world is challenging the Canadian government’s right to warn Canadian consumers of health risks.

That Japanese FCTC text in full...

A mysterious non-paper has been found on a copier in CIGG, marked “Finance Ministry of Japan”. It seems to be a draft of an alternative text for the FCTC. We have no idea if it is genuine...

Article 1. Guiding principle

Smoking is an article of taste for adults

Article 2. Objective

To avoid any reduction in the consumption of tobacco

Article 3. Trade

Each person, state or regional economic integration organisation shall promote rampant free trade in tobacco products and allow access to markets unfettered by tiresome concern for human life and welfare.

Article 4. Intellectual property

4a. Mild Seven is ‘mild’ if we say it is.

4b. Lung cancer shall hereinafter be known as “Mild Cancer”™

Article 5. Tobacco industry

Parties that are client states of tobacco companies shall pass each clause of the FCTC to tobacco companies for drafting suggestions and ratification.

Article 6. Subsidies and trade liberalisation

Subsidy of tobacco growing by Japan, United States and European Union shall be used to enable unfair competition and impoverishment of tobacco farmers in places like Malawi and Zimbabwe, in conformance with normal WTO procedures.

Article 7. Health

See article 1.

Article 8. Entry into force

Who cares.

* Germany has proposed an amendment to Article 2. Replace ‘avoid any reduction’ with ‘increase’.

FRAMEWORK CONVENTION ALLIANCE

The Framework Convention Alliance (FCA) is an alliance of NGOs from around the world working to achieve the strongest possible Framework Convention on Tobacco Control. Views expressed in the *Alliance Bulletin* are those of the writers and do not necessarily represent those of the sponsors.

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